

TITLE 327 WATER POLLUTION CONTROL DIVISION**IC 13-14-9.5-1.1 NOTICE OF REVIEW OF NONEXPIRING RULES**

LSA Document #18-172

This is a notice of rule review as described in [IC 13-14-9.5-1.1](#). Certain rules described in [IC 13-14-9.5-1.1](#) do not expire after seven years. These types of rules are: (1) rules required to receive or maintain delegation, primacy, or approval for implementation or operation of a program established under federal law; and (2) rules required to begin or continue receiving federal funding for implementation or operation of a program.

The Indiana Department of Environmental Management (IDEM) is required to publish a list of these rules that have been effective for seven years and request comment, in a 30 day comment period, on any specific rule that should be reviewed through the regular rulemaking process under [IC 13-14-9](#). IDEM must also notice a public hearing before the Environmental Rules Board (board). IDEM will respond to all comments received during the comment period and provide the comments and responses to the board during the public hearing. The board, after considering the comments, responses, and testimony at the hearing, will direct IDEM on whether additional rulemaking actions must be started to address concerns raised to the board.

[IC 13-14-9.5-1](#) provides that chapter 9.5 does not apply to "a rule that incorporates a federal regulation by reference or adopts under a federal mandate a federal regulation in its entirety without substantive additions." Therefore, those rules are not subject to this notice of readoption; however, for the reader's information, a list of exempt rules is included in this notice.

IC 13-14-9-4(a)(5) THROUGH IC 13-14-9-4(a)(7) IDENTIFICATION OF RESTRICTIONS AND REQUIREMENTS NOT IMPOSED UNDER FEDERAL LAW

[IC 13-14-9.5-1.1](#) requires this notice to contain the information described under [IC 13-14-9-4\(a\)\(5\)](#) through [IC 13-14-9-4\(a\)\(7\)](#) regarding restrictions and requirements of the listed rules that are not imposed under federal law. No element of the listed rules imposes either a restriction or requirement on persons to whom the rule applies that is not imposed under federal law. The listed rules at:

- (1) [327 IAC 2-1](#) and [327 IAC 2-1.5](#) concern water quality standard rules required under the Clean Water Act (CWA) in order for the state to have delegation for the National Pollutant Discharge Elimination System (NPDES) program;
- (2) [327 IAC 5-2](#) establish basic NPDES rules required under the CWA;
- (3) [327 IAC 5-18-1](#) and [327 IAC 5-21-1](#) are non-federal language describing the purpose of the federally required pretreatment rules, which are required under the CWA; and
- (4) [327 IAC 15-16](#) are part of the general permit rules, allowed under the NPDES program, to establish the program for Concentrated Animal Feeding Operations.

The CWA is the authority for water quality standards, NPDES, and pretreatment rules. Because of the variability of waters across the nation, the federal regulations under the CWA do not specify exact standards for the states but do require the states to establish standards that are federally reviewed and approved in order for a state to have delegation to conduct the NPDES program for the state. Indiana is a delegated state and, as such, the water quality standards, NPDES, and pretreatment rules have been federally approved.

These rules are authorized under [IC 13-18-3-2\(a\)](#) and [IC 13-18-3-11](#).

LIST OF RULES THAT DO NOT EXPIRE

The following is a list of rules in 327 IAC that have been effective for seven years and are: (1) required to receive or maintain delegation, primacy, or approval for implementation or operation of a program established under federal law; or (2) required to begin or continue receiving federal funding for implementation or operation of a program:

327 IAC 2-1-8.2	Determination of acute aquatic criteria (AAC)
327 IAC 2-1-8.3	Determination of chronic aquatic criteria (CAC)
327 IAC 2-1.3	Antidegradation Standards and Implementation Procedures
327 IAC 2-1.5-6	Bioaccumulative chemicals of concern
327 IAC 2-1.5-8	Minimum surface water quality criteria
327 IAC 2-1.5-16	Site-specific modifications to Tier I criteria and Tier II values
327 IAC 5-2-11.2	Public notice of comment period and public meetings for site-specific modification of water quality criteria and values; an antidegradation demonstration; a water quality improvement project; an alternate mixing zone demonstration; a variance
327 IAC 5-2-11.4	Great Lakes system dischargers total maximum daily loads; wasteload allocations for point sources; load allocations for nonpoint sources; preliminary wasteload allocations
327 IAC 5-2-11.5	Great Lakes system dischargers determination of reasonable potential to exceed water quality standards

327 IAC 5-2-11.6	Great Lakes system dischargers establishment of water quality-based effluent limitations (WQBELs)
327 IAC 5-18-1	Purpose
327 IAC 5-21-1	Purpose
327 IAC 15-16	Concentrated Animal Feeding Operations (CAFOs)

LIST OF EXEMPT RULES

This is a list of rules in 327 IAC to which [IC 13-14-9.5](#) does not apply in accordance with the exceptions in [IC 13-14-9.5-1](#). This list of exempt rules is provided for informational purposes only. The following rules are exempt from [IC 13-14-9.5](#):

327 IAC 5-2-1.5	Incorporation by reference
327 IAC 5-2-12.1	Great Lakes systems dischargers; schedules of compliance
327 IAC 5-2-17	New sources and new dischargers
327 IAC 5-2-22	Signatories to permit applications and reports
327 IAC 5-16	General Provisions
327 IAC 5-17	Definitions; Pretreatment Rules
327 IAC 5-18-2	Pretreatment standards for prohibited discharges
327 IAC 5-18-3	Affirmative defense
327 IAC 5-18-4	National categorical pretreatment standards
327 IAC 5-18-5	Variance from a categorical pretreatment standard for fundamentally different factors
327 IAC 5-18-6	Intake water pollutant credits
327 IAC 5-18-7	Combined wastestreams
327 IAC 5-18-8	State pretreatment standards
327 IAC 5-18-9	Other pretreatment requirements
327 IAC 5-19	POTW Pretreatment Programs
327 IAC 5-20	Removal Credits
327 IAC 5-21-2	Applicability of industrial wastewater pretreatment permits
327 IAC 5-21-3	Permit application submission requirements
327 IAC 5-21-4	Effect of permit issuance
327 IAC 5-21-5	Duration and transferability of an IWP permit
327 IAC 5-21-6	Conditions applicable to all permits
327 IAC 5-21-7	Applicable discharge limitations and related conditions
327 IAC 5-21-8	Schedules of compliance
327 IAC 5-21-9	Monitoring
327 IAC 5-21-10	Recording and reporting of monitoring results
327 IAC 5-21-11	Public notice procedures for IWP permit issuance
327 IAC 8-2	Drinking Water Standards
327 IAC 8-2.1	Consumer Confidence Reports
327 IAC 8-2.3	Ground Water Rule
327 IAC 8-2.4	Revised Total Coliform Rule
327 IAC 8-2.5	Disinfectants and Disinfection
327 IAC 8-2.6	Enhanced Filtration and Disinfection

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits comments on the nonexempt rules listed above that should be reviewed through the regular rulemaking process under [IC 13-14-9](#). IDEM requests that specific changes and language suggestions accompany the comments. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

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MaryAnn Stevens
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 232-8922.

(3) By electronic mail to mstevens@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the email address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or time stamped not later than May 18, 2018. Hand-delivered comments must be delivered to the office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232-8635 or (800) 451-6027 (in Indiana).

Christine Pedersen, Section Chief
Rules Development Branch
Office of Legal Counsel

[Notice of Public Hearing](#)

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